



Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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January 23, 1995

The Honorable Robert L. Livingston
U.S. House of Representatives
2368 Rayburn House Office Building
Washington, D.C. 20510-1801

Dear Congressman Livingston:

Thank you for your letter concerning the Commission's regulations governing personal communication services (PCS) on behalf of Radiofone in Louisiana. The Commission has, in an ongoing process, established rules for the provision of PCS that address the important role and unique qualities of cellular companies. Please be assured that the Commission shares your opinion that cellular carriers not be precluded from participating in the PCS auctions.

In Section 309(j) of the Communications Act, as amended by the Omnibus Budget Reconciliation Act, Congress directed the Commission to promote economic opportunity by disseminating licenses to a wide variety of applicants. Congress also instructed the Commission to promote competition and provide for rapid deployment of PCS. To this end, the Commission has amended certain aspects of the PCS licensing rules to effectuate the law's intention.

On June 9, 1994, the Commission adopted a Memorandum Opinion and Order in GEN Docket No. 90-314, 8 FCC Rcd 7700 (1994) which recognized that unfettered participation in PCS by cellular operators could lessen the potential competition that could develop between PCS and cellular systems. At the same time, the Commission recognized that cellular licensees could foster rapid development of PCS for a variety of reasons, including their expertise with commercial mobile services. The rules adopted in the Memorandum Opinion and Order seek to ensure that cellular companies have substantial opportunities to participate in the PCS auctions.

Specifically, the rules permit entities with a 20 percent or more investment interest in a cellular license to acquire a 10 MHz PCS license in the same area. Also, as of January 1, 2000, cellular operators will be subject to the same overall 40 MHz spectrum cap as other PCS operators, and be permitted to acquire an additional 5 MHz for a total of 15 MHz of

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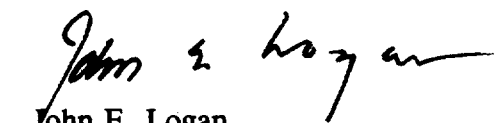
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PCS spectrum in the same service areas as their cellular interests. The rules permit designated entities -- small businesses, rural telephone companies, and businesses owned by women and minorities -- to own up to a 40 percent non-controlling interest in a cellular system and to hold a PCS license in the same area. The Commission is also relaxing the cellular attribution rules to allow any entity with up to a 40 percent non-controlling ownership interest in a cellular license covering 10 percent or more of the population in a PCS service area to also attain a non-controlling investment interest in a PCS license held by a business owned by minorities or women. In this later provision, the Commission sought to carry out Section 309(j)'s intent to establish a structure that allows market forces to promote expeditious delivery of services, avoid excessive concentration and provide meaningful opportunities to a range of individuals and entities. Section 309(j) committed to the Commission the responsibility to ensure that in the competitive award of PCS licenses, a genuine opportunity to participate was afforded to small business, rural telephone companies and businesses owned by minorities and women.

The cellular eligibility rules seek to balance the goals that Congress has establish -- promoting competition, ensuring rapid deployment of PCS, and providing economic opportunities for designated entities. It is the Commission's view that the participation by cellular providers will serve the public interest by promoting rapid deployment of PCS, participation by designated entities, and overall competition.

I hope that this information will allay your concerns that our licensing rules for PCS may have an adverse impact on cellular carriers. Please let us know if we can provide you with any additional information on this issue.

Sincerely,


John E. Logan
Deputy Director
Office of Legislative and
Intergovernmental Affairs

ROBERT L. LIVINGSTON
1ST DISTRICT, LOUISIANA

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Congress of the United States
House of Representatives

Washington, DC 20515-1801

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Mr. Reed Hunt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Dear Mr. Hunt:

I understand that the Federal Communications Commission is considering new regulations governing Personal Communication Service (PCS). I am concerned that the regulations will have an unintended adverse impact on independent cellular telephone companies, such as Radiofone, a Louisiana mobile communications company.

While I understand the need to exclude cellular subsidiaries of wireline telephone companies, the FCC should not exclude companies, which solely provide mobile communications, from the desirable PCS frequencies. If these companies are not permitted to compete in the new PCS technology, they will be unfairly penalized by regulations that apply more appropriately to the large telephone monopolies.

I urge the FCC to review this situation to ensure that small and medium-sized companies are not penalized by regulations that are aimed at the large telephone monopolies. Companies that are only in the cellular business should not be excluded from PCS technology.

Thank you for your consideration.

Sincerely,


ROBERT L. LIVINGSTON
Member of Congress

RLL/tf